

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MARIO A. VALENZUELA,

Plaintiff,

v.

SANTIESTEBAN,

Defendant.

Case No. 1:20-cv-01093-NONE-BAM (PC)

**ORDER DISCHARGING ORDER TO SHOW
CAUSE REGARDING DEFENDANTS'
FAILURE TO COMPLY WITH COURT
ORDER**

(ECF No. 40)

Plaintiff Mario A. Valenzuela ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Santiesteban, Rodriguez, and Alejo for excessive force in violation of the Eighth Amendment and against Defendant Perez for failure to protect in violation of the Eighth Amendment, arising from the incident on June 22, 2019.

On April 9, 2021, the Court granted Defendants' motion to stay this civil action until Plaintiff's criminal charges in Kings County Superior Court, case number 20CM-1621, arising from the same June 22, 2019 incident involved in this action, are resolved. (ECF No. 38.) Defendants were directed to file a status report within ninety (90) days from the date of service of that order, and every sixty (60) days thereafter, addressing the status of the criminal proceedings until they are resolved. (*Id.* at 6.) Following Defendants' failure to file a status report as directed, the Court issued an order to show cause directing Defendants to file a status report within seven

1 days or a written response regarding their failure to do so. (ECF No. 40.)

2 On July 16, 2021, Defendants filed a status report and response to the order to show cause.
3 (ECF No. 41.) Defendants indicate that Plaintiff's criminal case is ongoing and the next hearing
4 in that matter is a trial setting conference set for September 14, 2021. In addition, Plaintiff's
5 court-appointed attorney in his criminal case has informed Defendants' counsel that Plaintiff's
6 criminal matter will probably not be set for trial until sometime in 2022. Defendants indicate they
7 will file a status report every sixty days after the date of the instant status report to address the
8 status of Plaintiff's criminal proceedings until they are resolved. (*Id.*)

9 Based on the prompt filing of Defendants' status report in response to the order to show
10 cause, the Court's July 12, 2021 order to show cause, (ECF No. 40), is HEREBY
11 DISCHARGED. Defendants shall continue to file status reports addressing the status of
12 Plaintiff's criminal proceedings pursuant to the Court's April 9, 2021 order, and the action
13 remains stayed.

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15 IT IS SO ORDERED.

16 Dated: July 19, 2021

17 /s/ Barbara A. McAuliffe
18 UNITED STATES MAGISTRATE JUDGE
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